

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (Philadelphia)**

IN RE: SHANITA D. OUTING Debtor	Case No. 20-10679-elf
BANK OF AMERICA, N.A. Movant	Chapter 13
vs. SHANITA D. OUTING Respondent	11 U.S.C. §362

**MOTION OF BANK OF AMERICA, N.A. FOR RELIEF FROM AUTOMATIC STAY  
UNDER §362 PURSUANT TO BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, Brock and Scott PLLC, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by SHANITA D. OUTING AKA SHANITA OUTING (the “Debtor”).

1. Movant is Bank of America, N.A.
2. Debtor, SHANITA D. OUTING AKA SHANITA OUTING, is the owner of the premises located at 5700 N MARVINE STREET, PHILADELPHIA, PA 19141 hereinafter known as the mortgaged premises.
3. Movant is the holder of a mortgage on the mortgaged premises.
4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.
5. Movant instituted foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.
6. The foreclosure proceedings instituted were stayed by the filing of the instant Chapter 13 Petition.
7. The following chart sets forth the number and amount of post- payments due pursuant to the terms of the Note that have been missed as of February 22, 2022:

Number of Missed Payments	From:	To:	Monthly Missed Principal and Interest	Monthly Missed Escrow (if applicable)	Monthly Payment Amount	Total Amounts Missed
5	10/01/2021	02/01/2022	\$438.93	\$284.04	\$722.97	\$3,614.85
			Less post-petition partial payments (suspense balance): (\$330.49)			
						<b>Total: <u>\$3,284.36</u></b>

8. A post-petition payment history is attached hereto as Exhibit A.

9. The next payment is due on or before March 1, 2022 in the amount of \$722.97. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant. The following fees and costs have been incurred since bankruptcy filing: Plan Review Fees in the amount of \$150.00, 410A Prep Fees in the amount of \$250.00, POC Filing Fees in the amount of \$500.00, and Objection to Confirmation in the amount of \$500.00.

10. Movant, Bank of America, N.A. requests the Court award reimbursement in the amount of \$1,238.00 for the legal fees and costs associated with this Motion.

11. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

12. Movant specifically requests permission from the Honorable Court to communicate with and Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

13. Movant, its successors and assignees posits that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees should be allowed to immediately enforce and implement the

Order granting relief from the automatic stay.

14. Movant requests that if relief is granted that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

**WHEREFORE**, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay under Section 362 with respect to 5700 N MARVINE STREET, PHILADELPHIA, PA 19141 (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

b. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and

c. Holding that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever-increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees, should be allowed to immediately enforce and implement the Order granting relief from the automatic stay; and

d. Awarding Movant attorney fees and costs related to this Motion in the amount of \$1,238.00; and

e. Waiving Federal Rule of Bankruptcy Procedure 3002.1; and

f. Granting any other relief that this Court deems equitable and just.

March 11, 2022

/s/ Andrew Spivack

Andrew Spivack

(Bar No. 84439)

Attorney for Creditor

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